

REMARKS/ARGUMENTS

In the prior interview conducted with the Examiner on August 24, 2004, it was agreed that amending claim 5 to include all the limitations of claim 1 would make claim 5 allowable over the prior art. This change was previously incorporated into the application by amended claim 5. Consistent with the interview, the Examiner has allowed claim 5. Claims 2 and 6-11 have been amended to depend from allowed independent claim 5 by changing the dependency of claims 2, 6, 8 and 11. Based on the allowance of claim 5, it is respectfully submitted that claims 2 and 6-11 should also now be in clear condition for allowance.

At present, claim 12, the method of performing a cooking operation, stands rejected. By the present amendment/response, independent claim 12 has been amended to recite that the second power level is automatically established by the controller to be lower than the first power level if the second power level is not selected. As this wording equates to the limitations of claim 14 which was previously indicated to be allowable, into claim 12, it is respectfully submitted that claim 12, as well as claims 13 and 15-20 which depend either directly or indirectly from claim 12, should now be in clear condition for allowance.

Based on the above, it is submitted that allowance of the entire application will now only hinge on the Examiner's reconsideration of independent claim 1 and dependent claims 3 and 4. Initially, the Applicant again emphatically disagrees with the Examiner concerning the obviousness of employing a control system for a microwave oven with a cooktop in rejecting claim 1. In the Office Action, the Examiner has appropriately outlined that each of the main references are directed to cooktops lacking the programmable feature of the invention. The Examiner then describes the control system of Ueda. Finally, the Examiner indicates that "In view of Ueda, it would be obvious..." Basically, the reasoning of the Examiner is that, just because Ueda has certain teachings, the combination would be obvious. It is respectfully submitted that the mere fact the Ueda has a control system does not provide the motivation for a proper obviousness-type

rejection. The present invention is concerning with a programmable cooktop. Ueda is not. Why, other than based on the teachings of the present invention, would one of ordinary skill in the art make such a combination? The motivation for the combination is simply lacking in the prior art. The main references do not suggest providing a programmable cooktop analogous to that of the present invention and Ueda does not teach providing a programmable cooktop analogous to that of the present invention. So why would one of ordinary skill in the art be motivated to combine these references to provide a programmable cooktop corresponding to that of the present invention? It is respectfully submitted that, without appropriate motivation in the references, a prima facie case of obviousness has not been established such that claim 1 as previously presented should have been allowed.

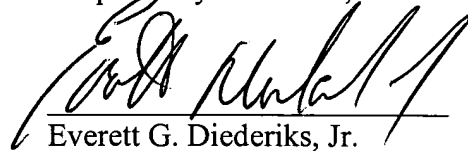
Regardless of the above, the Applicant has still amended claim 1 to specify that the second, active power level enables a simmer operation. A simmer operation, as discussed in the application and known in the art, is a cooking operation only associated with heating on a cooktop. One would not simmer something in the microwave of Ueda. Therefore, the control system of Ueda does not disclose or suggest any second, active power level that performs a simmer operation. Therefore, it is respectfully submitted that the present invention as set forth in claim 1 is further distinguished on this point.

With respect to claims 3 and 4, it is respectfully submitted that these claims even further distinguish the invention from the known prior art. In the outstanding Office Action, these claims have been rejected under a 4-way combination of references wherein the main cooktop references have been modified to include a microwave oven control system in view of Ueda, a power termination process in view of Ljunggren and another power termination process in view of Hoellerich. Certainly, for a proper obviousness-type rejection, the Examiner cannot pick and choose select features from the references but must rather apply them as a whole for what they teach or suggest. In modifying the combination applied to claim 1 to include the power termination process of Ljunggren, and then modifying Ljunggren in view of the power termination process of Hoellerich, the Examiner is picking and choosing features in an attempt to derive the present

invention based on hindsight. Why would one of ordinary skill in the art adopt the use of the power termination process of Ljunggren just to modify it? Again the Examiner has outlined in the Office Action the teachings of the references but, the motivation for the combination is not taken from the references. Hoellerich is concerned with providing a motion sensor on an appliance. The present invention is not concerned with any analogous arrangement. Ljunggren is concerned with shutting down a hot plate or oven when a user set timer expires. None of these arrangements is concerned with performing an automatic shut down function for a cooktop heating element "after a period of inactivity" as covered by claims 3 and 4. Without a prior art teaching to this feature of the invention, it is respectfully submitted that these claims should also be allowed.

Based on the above remarks, the indication of allowable subject matter in the application, and the manner in which the claims have now been amended, it is respectfully submitted that all claims in this application should now be in clear condition. Therefore, favorable reconsideration of the application is requested. If the Examiner should have any additional questions or concerns regarding the allowance of this application, he is cordially invited to contact the undersigned at the number provided below to further expedite the prosecution.

Respectfully submitted,



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